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BUREAU OF
OCCUPATIONAL LICENSING

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case Nos. SWO-2005-11
EDWARD P. MCCARROLL,)	
License No. LSW-327,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW
)	AND RECOMMENDED ORDER
Respondent.)	
)	

This matter is before the Hearing Officer based upon a Stipulation and written Briefs submitted by the parties. Emily Mac Master, appeared representing the Board of Social Work Examiners, and Anthony Valdez, appeared representing Respondent.

In lieu of an evidentiary hearing, the parties submitted a Stipulation re: Facts and Violations dated June 6, 2006. Thereafter, both parties submitted written closing Briefs and Respondent submitted additional exhibits.

FINDINGS OF FACT

1. As noted, the parties signed a written Stipulation establishing the facts related to each of the four counts of the

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Complaint. A copy of that Stipulation is attached ~~hereto~~ and incorporated herein by reference. A Stipulation containing four exhibits, Exhibits A-D, was also signed by the parties.

2. The disciplinary Complaint had four counts. Count One was related to D.M. and alleged that Mr. McCarroll prepared a sex offender risk assessment and evaluation, including a diagnosis and his actions constituted practice outside the boundaries of his education and bachelor-level license. Count Two related to D.H. included similar allegations of practice outside the boundaries of Mr. McCarroll's education and bachelor-level license. Count Three, related to T.L., alleged that Mr. McCarroll sent a demand letter for unpaid fees which failed to promote the well being of a client. Count Four alleged that Mr. McCarroll breached confidentiality by allowing written sexual histories of participants in a group to be taken back to the jail by various inmates participating in the group sessions.

3. In the Stipulation Re: Facts and Violations, Mr. McCarroll admitted to the facts supporting the counts of the Complaint and admitted his acts and practices violated applicable statutes and rules.

4. The parties further agreed they would be allowed to submit mitigation evidence related to appropriate sanctions and written closing briefing. Mr. McCarroll submitted an affidavit of his attorney, Anthony Valdez, with several exhibits, Exhibits A thru I. These exhibits show Mr. McCarroll has already been

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disciplined by the Association for the Treatment of Sexual Abusers and he has completed additional education. The Board elected not to submit any further evidence.

5. In the State's Closing Brief, on Page 5, the State acknowledges that Count I related to D.M. should be dismissed for the reason that the rules were not clear during the period of time Mr. McCarroll completed the sex offender evaluation for D.M. Consequently, the Board should not consider the allegations or admissions related to Count One in its consideration and determination of appropriate sanctions.

6. The issue to be decided by the Board is what are appropriate sanctions for Mr. McCarroll's violations of the applicable rules and statutes related to Counts Two, Three and Four. In its Brief, the State does not make a recommendation for sanctions. In his Brief, Mr. McCarroll asks that a private reprimand be issued.

7. A decision regarding appropriate sanctions is within the Board's discretion.

CONCLUSIONS OF LAW

8. Based upon the Stipulation of the parties, with respect to Count Two, related to D.H., Mr. McCarroll's evaluation of D.H. constitutes practice outside the boundaries of his education and bachelor-level license in violation of Idaho Code §54-3211(6) and Board Rule 450.03.a.

9. With respect to Count Three, related to T.L., Mr.

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McCarroll sending an inappropriately worded demand letter to T.L. constitutes a failure to promote the well being of a client in violation of Idaho Code §54-3211(6) and Board Rule 450.01.g.

10. With respect to Count Four, by allowing written sexual histories of group participants to be disseminated, Respondent violated Idaho Code §54-3211(6) and Board Rules 450.01.g and 450.02.i.

11. Pursuant to Idaho Code §54-3211, the Board has discretion to suspend, revoke or take other disciplinary action against a licensee upon proof that the licensee has engaged in "unprofessional conduct". In this case, the Board should determine what sanctions are appropriate.

RECOMMENDED ORDER

Based upon the foregoing, the Hearing Officer recommends that the Board of Social Work Examiner issue a disciplinary sanction which, in their discretion, they believe to be an appropriate sanction for Respondent's practice act violations.

DATED This 15 day of September, 2006.

JEAN R. URANGA

JEAN R. URANGA
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 15 day of September, 2006, I served true and correct copies of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER by depositing copies thereof in the United States mail, postage prepaid, in an envelope addressed to:

Anthony M. Valdez
Benoit, Alexander, Harwood,
High & Valdez, LLP
Attorneys at Law
P.O. Box 366
Twin Falls, Idaho 83303-0366

Emily A. Mac Master
Deputy Attorney General
Civil Litigation Division
Office of the Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

Marcie McGinty
Administrative Assistant
State of Idaho
Bureau of Occupational Licenses
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702-5642

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LAWRENCE G. WASDEN
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BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. SWO-2005-11
EDWARD P. MCCARROLL,)	
License No. LSW-327,)	STIPULATION;
)	RE: FACTS AND VIOLATIONS
Respondent.)	
)	

COME NOW the State of Idaho, by and through Emily A. Mac Master, Deputy Attorney General, and Respondent Edward P. McCarroll ("Respondent"), by and through Anthony M. Valdez, Attorney at Law, and hereby stipulate and agree to the following facts and violations in this matter.

A. Background.

1. The Idaho State Board of Social Work Examiners is empowered by Idaho Code § 54-3204 to regulate the practice of social work in the State of Idaho.

2. Respondent Edward P. McCarroll holds a bachelors degree in social work and was licensed by the Idaho State Board of Social Work Examiners under License No. LSW-327 on March 23, 1992, to engage in the practice of social work. Respondent's continued right to licensure is subject to Respondent's compliance with the

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laws of the Board codified at title 54, chapter 32, Idaho Code, and the rules of the Board, promulgated at IDAPA 24.14.01, *et seq.*

3. In July 1996, Respondent and Thomas A. Nielson, LCPC-338, formed McNiel & Associates, LLC, which was located in Twin Falls, Idaho. Respondent represents that at its inception, Mr. Nielson was a co-owner and the managing member of McNiel & Associates, LLC and did all of the clinical work for the business, including the preparation of sex offender risk assessments, while Respondent practiced as a social worker. Respondent also represents that Mr. Nielson left McNiel & Associates, LLC in 2002 but continued to act for the agency in a consultant capacity until early 2004, for the purpose of performing clinical work relating to sex offender assessment and treatment. Mr. Nielson met with Respondent as needed and signed Respondent's sex offender risk assessments and evaluations. When Mr. Nielson left McNiel & Associates, LLC in 2002, Respondent became the sole owner and managing member of the agency.

4. Mr. Nielson ceased his supervision of Respondent in early 2004. The Idaho Secretary of State administratively dissolved McNiel and Associates, LLC, in October 2004, and Respondent became the sole owner of "McNiel & Associates." Through his business Respondent has provided sex offender risk assessments and evaluations for alleged sex offenders who are court-ordered to undergo an assessment.

5. The sex offender risk assessments and evaluations that Respondent has prepared contain information required pursuant to the Rules of the Sexual Offender Classification Board, IDAPA 57.01.01.000, *et seq.* Such information includes: a family history, a sexual history, a mental status examination, assessment results, DSM-IV diagnoses, a risk assessment, prognostic therapeutic indicators, and Respondent's sentencing and treatment recommendations.

6. The district court uses sex offender risk assessments and evaluations to determine appropriate sentencing and treatment for convicted sex offenders. As such, an assessment seriously impacts an offender's life, as well as community safety.

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7. Beginning in approximately February 2004 Respondent employed Mark Annas, LCSW-670, as a clinical consultant with McNiel & Associates. Mr. Annas, who completed the Personality Assessment Inventories (PAIs) for Respondent's evaluations, met with Respondent as needed and signed Respondent's sex offender risk assessments and evaluations.

8. At times relevant herein, Respondent contracted with William L. Walter, a licensed polygraph examiner in Naselle, Washington, to provide polygraph examinations to alleged sex offenders who are ordered to undergo an examination by the district court.

B. Facts and Violations Relating to D.M.

1. On or about February 20, 2003, D.M. was convicted of four counts of sexual abuse of a child under 16. The court ordered D.M. to undergo a sex offender risk assessment and evaluation.

2. On or about March 19, 2003, Respondent met with D.M. for an unknown amount of time. Based on that meeting, Respondent prepared a sex offender risk assessment and evaluation of D.M. which contained the following DSM-IV diagnoses:

- a. Axis I: V71.01 – Adult Antisocial Behavior
302.9 – Paraphilia NOS
302.2 – Pedophilia Non-Exclusive Type
- b. Axis II: V71.09 – No diagnosis
- c. Axis III: Medication for degenerative disc
- d. Axis IV: Victim of child abuse, divorce, and relationship issues
- e. Axis V: GAF = 80

3. Respondent recommended in D.M.'s evaluation that the court sentence D.M. to the North Idaho Correctional Institution for six months to complete a sex offender program. Once D.M. completed the program, D.M., according to Respondent, should continue his treatment with outpatient group and individual therapy. Respondent also recommended 90 days of discretionary jail time. A true and correct copy of D.M.'s evaluation is filed under seal with the Hearing Officer and the Board as Exhibit A.

4. An unknown individual with initials "RM" signed D.M.'s evaluation for

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Thomas A. Nielson, the designated clinical director. Mr. Nielson did not participate in the initial evaluation or assessment process.

5. In a May 9, 2003, letter to the Gooding County Prosecuting Attorney, Respondent changed his diagnosis of D.M. to "pedophilia" instead of "pedophilia non-exclusive type." A true and correct copy of the May 9, 2003, letter is filed under seal with the Hearing Officer and the Board as Exhibit B. Respondent explained in his letter to the prosecutor that D.M. disclosed at his polygraph examination a preference for pre-pubescent males. Therefore, the "non-exclusive" diagnosis was incorrect. Given the new diagnosis, Respondent revoked his previous sentencing recommendation.

6. Respondent hereby admits that his completion and modification of D.M.'s evaluation constituted practice outside of the boundaries of Respondent's education and bachelor-level license in violation of Idaho Code § 54-3211(6) and Board Rule 450.03.a.

C. Facts and Violations Relating to D.H.

1. In 2003 D.H. pled guilty to five counts of rape, two counts of sexual battery of a minor, one count of disseminating material harmful to minors, and two counts of possession of sexually exploitive material. The court ordered D.H. to undergo a sex offender risk assessment and evaluation.

2. On or about January 28, 2004 and February 11, 2004, Respondent met with D.H. for an unknown amount of time. Based on those meetings, Respondent prepared a sex offender risk assessment and evaluation of D.H. which contained the following DSM-IV diagnoses:

- a. Axis I: V71.01 – Adult Antisocial Behavior
- b. Axis II: 301 – Narcissistic Personality Disorder
- c. Axis III: None
- d. Axis IV: Depression
- e. Axis V: GAF = 41-51, serious symptoms. [D.H.] self-reported that he was diagnosed with Bi-Polar as well as Manic/Depression. [D.H.] was diagnosed by two psychiatrists as a Mentally Disordered Sex Offender.

3. Respondent concluded in D.H.'s evaluation that D.H. was not amenable to

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outpatient treatment.

4. Mark Annas completed the Personality Assessment Inventory in D.H.'s evaluation, but did not otherwise participate in the initial evaluation or assessment process. Mr. Annas signed the evaluation as the clinical supervisor. A true and correct copy of D.H.'s evaluation is filed under seal with the Hearing Officer and the Board as Exhibit C.

5. Respondent hereby admits that his completion of D.H.'s evaluation constituted practice outside of the boundaries of Respondent's education and bachelor-level license in violation of Idaho Code § 54-3211(6) and Board Rule 450.03.a.

D. Facts and Violations Relating to T.L.

1. In 2000, T.L. pled guilty to one count of rape. The court ordered T.L. to undergo a sex offender risk assessment and evaluation.

2. On or about December 3, 2001, Respondent sent T.L. a letter which read:

DEAR [T.L.]:

"YOU MAY DIE SOON! I WOULD LIKE TO BE A PALLBEARER AT YOUR FUNERAL SINCE I HAVE BEEN CARRYING YOU FINANCIALLY IN THIS COUNSELING PROGRAM!!!!!"

YOU CURRENTLY OWE MCNIEL & ASSOCIATES \$1,057.00 FOR PAST DELINQUENT SERVICES. YOU HAVE UNTIL DEC. 31ST TO HAVE A ZERO BALANCE OR ELSE. TAKE A GUESS AT "WHAT ELSE" CAN MEAN . . . USE YOUR IMAGINATION!

IF YOU ARE TAKING A POLYGRAPH IN JANUARY THEN YOU MUST HAVE A ZERO BALANCE BY DEC. 31ST!!!!

THERE ARE NO FINANCIAL PLANS . . . A SERVICE HAS BEEN DELIVERED, LIKE PIZZA HUT TO YOUR DOOR . . . YOU PAY!

THE MANAGEMENT

CC. PROBATION OFFICER, ADULT P & P

A true and correct copy of the letter to T.L. is filed under seal with the Hearing Officer

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and the Board as Exhibit D.

3. Respondent hereby admits that his sending of the letter to T.L. constituted a failure to promote the well-being of a client and a violation of Idaho Code § 54-3211(6) and Board Rule 450.01.g.

E. Facts and Violations Relating to Breach of Confidentiality

1. Written sexual histories of participants in Respondent's group are regularly shared in group and are to be collected by the group facilitator at the end of a group session and shredded. The written sexual history for T.L., which included information about his girlfriend's sexual history, as well as several other participants' written sexual histories, were taken back to jail by inmates participating in the group sessions and passed between inmates. Those sexual histories were collected by the Bureau of Occupational Licenses investigator during the course of the Bureau's investigation in this matter.

2. Respondent hereby admits that his failure to ensure that T.L.'s and other group participants' written sexual histories remained confidential constituted a violation of Idaho Code § 54-3211(6) and Board Rules 450.01.g and 450.02.i.

STIPULATED AND AGREED:

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Emily A. Mac Master

Emily A. Mac Master
Deputy Attorney General

Dated: June 6, 2006

BENOIT, ALEXANDER, HARWOOD,
HIGH & VALDEZ, LLP

By Anthony M. Valdez

Anthony M. Valdez
Of Attorneys for Respondent

Dated: _____

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CERTIFICATE OF SERVICE

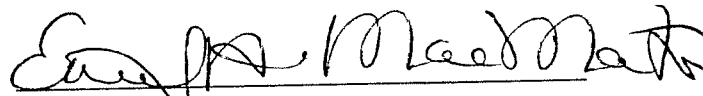
I HEREBY CERTIFY that on this 6th day of June, 2006, I caused to be served a true and correct copy of the foregoing by the following method to:

Anthony M. Valdez
BENOIT, ALEXANDER, HARWOOD,
HIGH & VALDEZ, LLP
P.O. Box 366
Twin Falls, ID 83303-0366

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Jean R. Uranga
URANGA & URANGA
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- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail


Emily A. Mac Master
Deputy Attorney General